

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

|   |   |                        |
|---|---|------------------------|
| TERRY L. GIBBS,                               | ) |                        |
|   | ) |                        |
| Plaintiff,                                    | ) |                        |
|   | ) |                        |
| v.  | ) | Case No. CIV-05-1189-M |
|   | ) |                        |
| JO ANNE B. BARNHART,                          | ) |                        |
| Commissioner, Social Security Administration, | ) |                        |
|   | ) |                        |
| Defendant.                                    | ) |                        |

**ORDER**

On May 31, 2006, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation [docket no. 25] in this action brought pursuant to 42 U.S.C. § 405(g) for judicial review of Defendant Commissioner of the Social Security Administration's ("Commissioner") partial denial of supplemental security income benefits. Magistrate Judge Bacharach recommends that the Court grant Defendant's Motion to Remand, grant Defendant's Motion to Dismiss Plaintiff's Plan For Achieving Self-Support ("P.A.S.S.") claim, and remand this matter for further administrative action pursuant to sentence six of 42 U.S.C. § 405(g). The parties were advised of their right to object to the Report and Recommendation by June 28, 2006.<sup>1</sup> Plaintiff timely filed his objections.

In his objections Plaintiff asserts that "this report and recommendation if accepted would encourage the practice of mis-placing [sic] or for the destruction of tapes and other materials in order to secure . . . a 'Sentence Six' remand and a start all over hearing." Plaintiff's Objection [docket no. 31] at 2. Plaintiff further asserts that the Magistrate Judge's recommendation with regard to his

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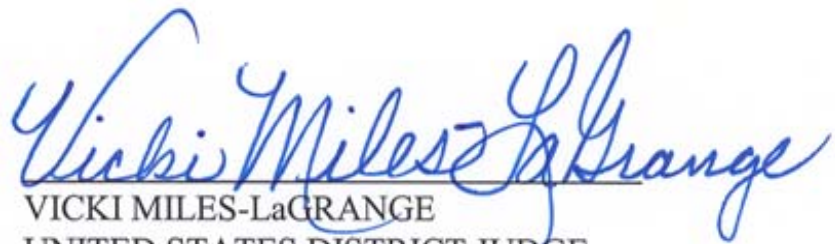
<sup>1</sup>Objections were originally due June 21, 2006, however, on June 16, 2006, the Court granted Plaintiff's Application for Extension of Time to File Written Objections to the Report and Recommendations [docket no. 26] and extended the due date to June 28, 2006.

P.A.S.S. claim is “based on finding[s] which are not correct and/or are [at] most accusations as contested by evidence exhibited.” Plaintiff’s Objections [docket no. 31] at 3-4. Having carefully reviewed the Magistrate Judge’s Report and Recommendation and the parties’ submissions, the Court finds that the Magistrate Judge adequately considered all of Plaintiff’s arguments.

Accordingly, upon *de novo* review, the Court:

- (1) ADOPTS the thorough and well-reasoned Report and Recommendation [docket no. 25] issued by Magistrate Judge Bacharach on May 31, 2006;
- (2) GRANTS Defendant’s Motion to Dismiss Plaintiff’s P.A.S.S. claim [docket no. 14];
- (3) DISMISSES Plaintiff’s P.A.S.S. claim without prejudice;
- (4) GRANTS Defendant’s Motion to Remand [docket no. 14];
- (5) REMANDS this matter to the agency for further administrative proceedings pursuant to sentence six of 42 U.S.C. § 405(g); and
- (6) DIRECTS the agency to conduct a *de novo* administrative hearing and to issue a new decision.

**IT IS SO ORDERED this 6th day of July, 2006.**



VICKI MILES-LaGRANGE  
UNITED STATES DISTRICT JUDGE